BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Gail L. and William S. Murray Dist. 2, Map 77N, Group F, Control Map 77N, Parcel 20.00 Residential Property Tax Year 2007	)) Cumberland County)))

CORRECTED
INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$23,600	$175,800	$199,400	$49,850

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 5, 2007 in Crossville, Tennessee. In attendance at the hearing were William Murray, the appellant, Cumberland County Property Assessor's representative Mary Cox, and Fred Wilson, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 15 Lochmor Court in the Druid Hills section of Fairfield Glade in Crossville, Tennessee.

The taxpayers contended that subject property should be valued at $130,000. In support of this position, the taxpayer argued that subject property has historically been overappraised by the assessor of property. The taxpayer questioned numerous calls on the property record card which he maintained inflate the appraisal of subject property.

The taxpayer asserted that subject property experiences a significant dimunition in value due to defective siding he is in the process of replacing. Mr. Murray estimated that the total cost to replace the siding and address ancillary problems could approach $45,000.

The taxpayer also introduced market data that he maintained supports his contention of value. The taxpayer placed significant emphasis on the November 20, 2006 sale of the home located at 118 Greenwood Road for $105,000.

The assessor contended that subject property should remain valued at $199,400. In support of this position, the property record card and three comparable sales were introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $196,600. The administrative judge finds that the property record card should be corrected to reflect that subject property does not have a fireplace. For the reasons discussed below, the administrative judge finds that the taxpayer introduced insufficient evidence to support any further reduction in value.

Since the taxpayer is appealing from the determination of the Cumberland County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the fair market value of a residence is normally established by analyzing comparable sales and adjusting them as appropriate. As stated by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992):

> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

Respectfully, the administrative judge finds that the sales relied on by Mr. Murray have not been adjusted and cannot meaningfully be compared with the subject property absent additional evidence. For example, the only information concerning the home at 118 Greenwood Road is that it was built in 1972, has 2.5 baths and 2,013 square feet. The subject, in contrast, was constructed in 1982, has a 1,268 square foot semi-finished basement in addition to 2,006 square feet of base area and a 440 square foot finished garage. The administrative judge finds that the taxpayer has not compared "apples to apples" based upon the minimal information in the record. Moreover, it is unclear how the locations of the two properties compare.

The administrative judge finds that the Assessment Appeals Commission historically rejected taxpayers' attempts to establish the market value of their property by simply challenging certain calls on the property record card. For example, in *Devere M. Foxworth*

(Polk Co., Tax Year 2001) the Assessment Appeals Commission ruled in pertinent part as follows:

> The problem with evaluating a property tax assessment on the basis of the pieces of the assessor's record is at least two-fold. First, the pieces may not compare one to another, i.e., the value attributed by the CAAS system to a typical component may not represent the true contribution of the component as represented in the subject property. Second, the pieces are part of a whole that is merely a computer generated approximation of the legal standard of fair market value. The result for a particular property in the assessor's system may o9r may not yield fair market value. The appeal process therefore looks to more traditional methods of individual property valuation in order to be sure the legal standard has been met.

Final Decision and Order at 1.

The administrative judge has no doubt that subject property experiences a loss in value due to the defective siding. However, the administrative judge finds that the loss in value cannot be quantified absent additional evidence. The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject

property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds that the assessor of property has attempted to consider the problem by allowing an additional 10% depreciation ["other physical"] on the property record card. This equates to a reduction in value of $29,255.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$23,600	$173,000	$196,900	$49,225

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 16th day of October, 2007.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. William Murray
Ralph Barnwell, Assessor of Property

STATE OF TENNESSEE
DEPARTMENT OF STATE
Administrative Procedures Division
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October 16, 2007

MEMORANDUM

TO: Mr. William Murray
Ralph Barnwell, Assessor of Property

FROM: Mark J. Minsky, Administrative Judge MJM

SUBJECT: 2007 Cumberland County Corrected Order
William Murray
2-77N-F-77N-20.00

Please be advised that the enclosed Initial Decision and Order is being reissued due to a typographical error in the Assessment Value. The order has been changed to reflect the correct Assessment Value as $49,225.

We apologize for any inconvenience this may have caused.

MJM:kh

Enc.